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September 24, 2004

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The Honorable Scott J. Bloch
U.S. Office of Special Counsel
1730 M Street, NW
Washington, DC 20036

Dear Mr. Bloch:

I am writing to request that your office investigate an apparent violation of the Hatch Act.

On April 20, 2004, three officials at the Department of Agriculture (USDA) made a presentation to the annual conference of the American Dairy Products Institute (ADPI) and American Butter Institute. The presentation was apparently delivered by Larry Salathe from the Office of the Chief Economist and William March and Milton Madison from the Farm Service Agency. (A copy of the presentation document is enclosed.)

The 16-page document, which contains the USDA logo, states that USDA's 2004 "Goals and Objectives in an election year" are to "Maximize votes from major dairy States" such as "California, Wisconsin, Minnesota, New York, Michigan." Another page in the document discusses "How to Maximize Votes" through "Supportive policy actions" and the need to "Address concerns of constituents." The final page of the document, titled "Election Year Fallout," states that the federal budget deficit "Will be addressed after the election." Throughout the document, there are graphics with political overtones: an elephant and donkey boxing; two cartoon figures voting; and a logo noting the month of November on the page titled "How to Maximize Votes."

On its face, the USDA presentation document strongly suggests that Messrs. Salathe, March, and Madison were speaking in their official capacity as federal employees and were discussing ways to influence the upcoming election while on duty. If this is the case, these USDA officials appear to have violated the Hatch Act.

Federal law states that a federal employee may not "use his official authority or influence for the purpose of interfering with or affecting the result of an election" (5 U.S.C. §7323(a)(1)). Examples of prohibited conduct include an employee "[u]sing his or her official title while participating in political activity" and "[u]sing his or her authority to coerce any person to participate in political activity" (5 C.F.R. §734.302(b)). The Hatch Act also clearly states that a

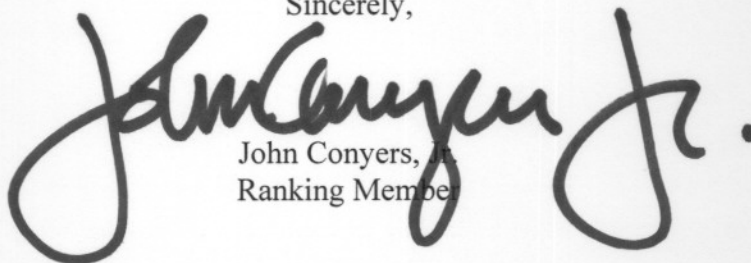
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federal employee "may not engage in political activity while the employee is on duty" (5 U.S.C. §7324(a)(1)). The penalty for violating the Hatch Act is removal of the employee from his position in the federal government (5 U.S.C. §7326).

USDA Chief Economist Keith Collins, Mr. Salathe's boss, has explained that "Larry made a mistake" with "smartass, off-the-cuff comments."¹ However, Mr. Salathe's remarks were contained in a 16-page, printed document full of graphics that was posted on ADPI's website – facts that contradict the notion that the remarks were "off-the cuff." Mr. Collins also has said that Mr. Salathe was trying to make the point "that it's hard to make policy in the last six months as a runup to the election." Nowhere does the document discuss the difficulties of making policy during an election year. To the contrary, the document discusses how to affirmatively "maximize votes" during an election year.

The Office of Special Counsel has the authority to investigate potential violations of the Hatch Act. We ask that you open such an investigation and notify us when the investigation has been completed.

Sincerely,

A large, stylized handwritten signature in black ink, reading "John Conyers Jr." with a period at the end. The signature is written in a cursive, flowing style.

John Conyers, Jr.
Ranking Member

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¹ *USDA Dairy Briefing Takes a Partisan Turn*, GovExec.com (Sept. 7, 2004).